

Overview
Wood Sustainability Regulations
(for Registered Buyers)

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Wood Sustainability Regulations

Background

During the past five years significant changes have occurred which have impacted on wood supply sustainability in Nova Scotia. For instance, the supply region for primary forest products has expanded beyond the province itself to include eastern US, Quebec and the other Atlantic provinces. As a result of continuing strong demand from the pulp and paper industry within the region combined with increased demand for sawn logs, overall harvest levels in the region have increased. The requirement for logs and pulpwood from other provinces has also expanded the export market for unprocessed wood from Nova Scotia. Exports now constitutes approximately 15% of our total annual harvest. In addition, the expansion of the sawmill industry within Nova Scotia itself has expanded local demand.

While harvest levels have increased, there has not been an equivalent increase in the amount of silviculture being conducted in the province, particularly on private woodlots. With the decline in provincial/federal silviculture funding programs, overall levels of silviculture may have even declined during the last five years. This concern prompted the development of a new strategy for forest management in the province as proposed in the *Position Paper: Toward Sustainable Forestry* published by NS Department of Natural Resources (DNR) in 1997.

Response to the strategy proposed in the Position Paper indicated strong support for requiring that silviculture be undertaken on all lands harvested in the province not only to replace the wood being harvested but to ensure the long term sustainable use of our forests for a variety of purposes. These draft Wood Sustainability Regulations are one element of this strategy and a key one to developing responsible stewardship of our forests.

In December 1998, amendments to the Forests Act were approved by the Legislature. These amendments provide the authority to develop and implement the requirement for wood acquisition plans as described in the draft Wood Sustainability Regulations. This overview is intended to provide a better understanding of what is proposed, how it will be implemented, and related compliance and enforcement requirements

1. Purpose of the Wood Sustainability Regulations

The Department of Natural Resources proposes to enact regulations to sustain the productivity of Nova Scotia's forests that contribute to/provide for future timber required by the Nova Scotia forest industry. It has been recognized by government, the forest industry and landowners that the long term sustainability of the timber resource depends on ensuring prompt regeneration of harvested areas, and tending of growing forests (commercial tree species) to achieve merchantability within the growth capabilities of Nova Scotia's managed forests.

2. Wood Sustainability Regulations

The proposed Wood Sustainability Regulations will be established under authority of the Forests Act as amended in 1998. They specify the requirements and procedures for submission of annual wood acquisition plans as referenced in the Position Paper: Toward Sustainable Forestry. These regulations also include provision for record keeping, reporting requirements and enforcement.

The proposed regulations will require that Registered Buyers, as defined by the Registration and Statistical Returns Regulations, submit to the Department of Natural Resources for approval, an annual wood acquisition plan. It is proposed that these regulations apply to Registered Buyers who acquire in excess of 10,000 m3 of primary forest products in a given year. Under these regulations, the Registered Buyer will be required to submit their wood acquisition plan along with their annual statistical return to the Registry of Buyers, which is due by February 28 of each year.

Since the wood acquisition plans are based on data submitted under the Registration and Statistical Returns legislation, the regulations concerning government confidentiality (Freedom of Information and Protection of Privacy Act) will apply with respect to all data and information for individual registered buyers.

Specifically, the intent of these proposed regulations is to ensure that an adequate level of silviculture is being undertaken in Nova Scotia. Registered Buyers, as specified in the proposed regulations, will be required to assist in the achievement of such silviculture levels by :

- planing and implementing a silviculture program for lands that they own or contro,
- planing, funding and administering a silviculture program to be conducted on lands owned or controlled by another landowner,
- entering into agreements with other organizations for the purpose of conducting silviculture programs on their behalf, and/or
- making a contribution to the Sustainable Forestry Fund (SFF) at a specified rate of \$3.00/m3 of SW & \$0.60/m3 of HW which includes 10% allowance for administration.

The amount of silviculture to be undertaken or the amount of contribution to the SFF will be directly proportional to the volume of primary forest products acquired from industrial and/or private land during the previous year from within Nova Scotia, as reported to the Registry of Buyers. There will be no requirement to provide for silviculture to be undertaken where the wood has been acquired from Crown land, as that will be the responsibility of the Department of Natural Resources.

After the first year, the wood acquisition plan will also include, where applicable, a report on the amount and location of silviculture undertaken during the year to meet the obligations of the previous years plan. In the case of the silviculture programs, the distribution of treatments among industrial and private land tenures shall be proportional to the volume of wood acquired from each land tenure.

3. Administrative Structure for Wood Sustainability Regulations

3.6 Structure

3.6.1 Wood Acquisition Plan System

This includes the procedures, processes, record keeping and follow-up monitoring of the wood acquisition plans required under this legislation. It describes the requirements of the Registered Buyers and third party organizations for submission, implementation and record keeping as well as the duties of the Department for approvals and monitoring. Refer to Section 4 for more detailed information.

3.6.2 Communications Plan

The Communications plan will focus on (1) informing all Registered Buyers of the requirements and procedures as per these regulations, (2) informing DNR staff of legal requirements and implementation procedures for these regulations, and staff responsibilities related to these requirements. Communications efforts should also focus on the public concerning the effect and results of these regulations on long term wood supply sustainability. It is further described in Section 5.

3.6.3 Technical Support

This component describes the approach to providing assistance to Registered Buyers in meeting the requirements of the wood acquisition plans. It includes production of a guidebook for the submission requirements of the wood acquisition plan sections of these regulations. It also describes the record keeping requirements by Registered Buyers, and provision of annual summary reports required under this legislation. This approach is described in more detail in Section 6.

3.6.4 Monitoring and Enforcement

The monitoring component describes the reporting requirements by Registered Buyers of actions taken under approved plans, and the methodology and assessment procedures to be taken by NSDNR to confirm compliance under these regulations. It also includes the procedures for determining non-compliance and actions concerning the initiation of enforcement procedures under the Forests Act.

3.2 Administrative Roles and Responsibilities

Within the Government of Nova Scotia the Wood Sustainability Regulations are the responsibility of the Department of Natural Resources and will be administered by:

- Minister
- Registrar
- DNR Staff

Minister

These Regulations are authorized under the Forests Act, and as the administrator of the Act, the Minister of Natural Resources is responsible for ensuring that the intent of these regulations is carried out within the Department.

Registrar

Within the legislation, there is a provision for the designation of a person to be responsible for the administration of the wood sustainability regulations. The Registrar, as designated, assumes the responsibility for the administration of these regulations on behalf of the Minister. In this capacity, the Registrar will be responsible for ensuring an efficient and effective approval process, administering a record keeping system of annual plans and annual reports and to co-ordinate requirements for monitoring of sustainability plans.

NSDNR Staff

Responsibilities for the administration, communications, technical support and enforcement are handled jointly between the Forestry Division of the Renewable Resource Branch and the Regional Services Branch. Responsibility primarily handled by Forestry Division include the approval process, administration of plans and annual reports, technical procedures and policies, and general communications.

Staff of the Regional Services Branch have responsibilities for technical support to Registered Buyers, monitoring compliance of silviculture treatment plans, and enforcement under these regulations.

4. Operation of the Wood Acquisition Plan System

The System includes the operational procedures, approvals, process, management of the plan information and procedures for monitoring compliance.

4.1 Intent

- operational system to support, approve and monitor wood acquisition plans
- provide a central registry of approved plans and annual reports
- provide accurate data of annual silviculture activities for updating the GIS forestry database and the SAWS wood supply model as part of the forest management strategy
- co-ordinate strategy for monitoring compliance
- provide technical assistance for developing sustainable silviculture plans

4.2 Objective

- effective service to assist plan development
- efficient, fast turn around time for plan approval process
- effective strategy to monitor compliance
- effective annual reporting system

4.3 Operational Procedures of Sustainability Plan System

Form Distribution and Plan Submissions

All forms shall be distributed to applicable Registered Buyers as part of the annual mail out associated with the registration and statistical return forms conducted by the Registry. Registered Buyers are requested to file the wood acquisition plan forms directly to the Registrar or to a local NSDNR office at the same time, and with the same filing data, as the statistical returns, ie - February 28th.

All wood acquisition plan forms, once received by the Registrar, shall be forwarded to the Forest Planning & Research section, Forestry Division, Renewable Resources Branch, NSDNR., for review and recommendations regarding approval. Enquiries related to the requirements, procedures and submissions of wood acquisition plans will be addressed by staff in the Forest Planning & Research section on behalf of the Registrar.

Approval Procedures and Processing of Forms

Once received by the Registrar, all forms required under the regulations will be verified for completeness. When forms are incomplete, staff will make reasonable effort to contact the applicant to complete the forms within 30 days of initial receipt. Completed forms will be reviewed and recommendations made regarding approval, within 60 days of initial receipt. Registered Buyers will be notified in writing within one week of a decision

regarding approval. Where a plan is not approved, deficiencies will be outlined as part of the notification.

Processing Wood Acquisition Plans and Reporting Annual Results

Completed and approved wood acquisition plan forms shall be registered and maintained on record by the Registrar. A Registered Buyer will be required to submit an annual summary report with each wood acquisition plan documenting the payments to the SFF or accomplishment of silviculture treatment program as approved in the wood acquisition plan submitted for the previous year.

Monitoring Compliance

The following conditions must be met to be considered in compliance with these regulations:

- i) submission and approval of annual wood acquisition plans
- ii) deposit of funds to the Sustainable Forestry Fund according to regulations and policy, if this option is chosen
- iii) completion of annual silviculture program from approved wood acquisition plan
- iv) submission and approval of annual summary report
- v) completion of approved/required carry forward provisions within a plan

Submissions and Approvals Compliance

The Registrar will monitor compliance to the regulations through periodic audits and regular compliance monitoring programs. Failure to comply with the requirement of the regulations in a timely manner may result in removal of the Registered Buyers status, and/or penalties under the provisions of the Forests Act.

Sustainable Forestry Fund Compliance

Approved plans, or parts of plans, that commit the Registered Buyer to contribute money to the Sustainable Forestry Fund will be recorded/registered as a legal indebtedness to that province in the name of the Fund. Contributions must be submitted as part of the annual wood acquisition plan in accordance with the provisions of the regulations when this option is chosen.

Silviculture Program Compliance

Registered Buyers are required to carry out their annual silviculture treatment program by the end of the calendar year for which it was approved. Registered Buyers are required

to keep and maintain accurate records of all silviculture treatments conducted in accordance with their approved plans, including accurate mapping by treatment type, treatment specifications, species, application rates, spacing, etc. The following year's submission by Registered Buyers shall include an annual summary report of silviculture activities conducted in accordance with the previous years' approved plans.

Annual reports will include complete listings and accurate mapping of all conducted treatments, by treatment type and landowner, for the purpose of program monitoring, audits and for updating silviculture treatments into the GIS forestry database.

Following submission of annual summary reports, random audit procedures shall be initiated by the Registrar to verify compliance. Through a random selection process, silviculture programs shall be assessed for compliance to approved plan requirements, sustainable forest management principles and approved technical silviculture treatment guidelines .

Deficiencies and Credits

Deficiencies with respect to the approved silviculture treatment program may be dealt with in the following options:

- Registered Buyers may carry forward deficiencies valued at 20 percent or less of the total required program for one year or pay the equivalent value of the deficiency plus interest to the Sustainable Forestry Fund.
- the equivalent value plus interest of all deficiencies greater than 20 percent of the required value of the program will be due to the Sustainable Forestry Fund at the deadline of submitting annual reports (February 28) .

Credits for silviculture treatments done in excess of the required value of the program may be carried forward for five years and applied to subsequent wood acquisition plans during that period.

5. Communications and Technical Support

Communication requirements for the successful implementation of the wood sustainability regulations will involve:

- i) informing and training Registered Buyers of their requirements under the Act
 - ii) training NSDNR staff to provide effective administration of the regulations
 - iii) informing the public on the status of wood supply sustainability from Nova Scotia's forests following implementation of these regulations.
- i) Registered Buyers
 - to clearly inform Registered Buyers of their responsibilities under the act and regulations
 - to create an understanding with Registered Buyers of the positive long term effects of the wood sustainability regulations
 - to instruct Registered Buyers in how to complete the documentation and record keeping required under the regulations
 - to establish communication links between the Registered Buyers and the department to handle inquiries, complaints, updates, etc.
 - ii) NSDNR Staff
 - to provide adequate training to regional staff for assisting Registered Buyers with meeting the requirements of the sustainability regulations.
 - to provide NSDNR staff details of procedures and administrative set-up for handling requests, inquiries and complaints from Registered Buyers
 - to provide training for NSDNR staff on assessment procedures for monitoring compliance of these regulations
 - to inform and consult with staff on a regular basis on aspects of compliance, results, problems and changes with respect to these regulations.
 - iii) Public
 - to publish as part of the State of the Forest Report results of compliance or non-compliance with respect to these regulations
 - to report annual statistical results of silviculture activities by Registered Buyers and the Sustainable Forestry Fund

Who is responsible:

The Forestry Division, Renewable Resources Branch, in association with:

- Registry of Buyers
- Regional Services Branch
- NSDNR Communications and Publications Section

6. Enforcement

The enforcement component consists of operational objectives, guidelines and procedures for ensuring compliance of the Wood Sustainability Regulations under the Forests Act.

6.1 Intent

- ensure compliance to the requirements of the Wood Sustainability Regulations is met consistently across the province.
- provide policy and procedures for identifying non-compliance and for enforcement of the Wood Sustainability Regulations

6.2 Objectives

- maintain a high level of compliance to Wood Sustainability requirements
- use enforcement action as a last resort in achieving desired compliance levels

6.3 Who is Responsible

Director of Enforcement, Regional Services Branch, in association with:

- Registrar
- Area Supervisors, Regional Services Branch

6.4 Potential Violations under the Wood Sustainability Regulations:

- failure to file wood acquisition plan with the Department of Natural Resources
- failure to meet the approval requirements of the wood acquisition plan
- failure to complete the actions required of an approved wood acquisition plan within regulated time limits.
- failure to meet the annual reporting requirements of these regulations.
- failure to complete approved carry forward provisions of silviculture treatment programs.

6.5 Penalties

Penalties under these regulations will be pursuant to the Forests Act and the Summary Proceedings Act.

Citation

- 1** These regulations shall be cited as the *Wood Sustainability Regulations*.

Definitions

- 2** In these regulations

- (a) "deemed value" means the value of silviculture treatments calculated under subsection 6(4);
- (b) "export" means export from the Province;
- (c) "federal lands" means all or any part of land situated in the Province under the administration and control of Her Majesty the Queen in right of Canada;
- (d) "import" means import into the Province;
- (e) "industrial landowner" means a landowner who owns a wood processing facility which processes primary forest products;
- (f) "private landowner" means a landowner who does not own a wood processing facility;
- (g) "privately owned forest land" means forest lands which are owned other than by the federal or provincial Crown;
- (h) "region" means the administrative regions of the Department;
- (i) "registered buyer" means a person who
 - (i) is an owner or operator of a wood processing facility in the Province which processes primary forest products,
 - (ii) exports primary forest products from the Province,
 - (iii) imports primary forest products into the Province,
 - (iv) sells or acquires for sale more than 1000 m³ solid primary forest products as a fuel; or

- (v) acquires primary forest products for producing energy;
- (j) "required value" means the value of silviculture treatments calculated under clause 6(2)(d);
- (k) "species" means softwood and hardwood species of trees;
- (l) "sustainable harvest" means a currently available supply of primary forest products which is continuously available for harvest; and
- (m) "Sustainable Forestry Fund" means the fund established by the Province under Section 19A of the *Forests Act*.

Wood Acquisition Plan Submission Requirement

- 3 (1) All registered buyers of primary forest products who have reported wood acquisitions equal to or greater than 10,000 m³ solid shall submit to the Minister for approval in each year a wood acquisition plan.
- (2) The wood acquisition plan shall be based on volumes reported in Form B of the *Registration and Statistical Return Regulations*.
- (3) The wood acquisition plan shall be submitted in a form provided by the Minister and shall be submitted to the Minister in accordance with the time periods for submissions of annual statistical returns under the *Registration and Statistical Return Regulations*.

Plan Initial Phase-in Period

- 4 (1) In the first year of enactment, subsection 3(1) shall not apply to
 - (a) a registered buyer who reported in the year of enactment less than 100,000 m³ solid of primary forest products for use in the province; or
 - (b) a registered buyer who reported less than 10,000 m³ solid for export following the enactment of these regulations.

Wood Acquisition Plan Options

- 5 (1)** A wood acquisition plan shall consist of either of the following, or a combination of the following
- (a) a Silviculture Treatment Program(s) in accordance with Section 6;
 - (b) a financial contribution to the Sustainable Forestry Fund in accordance with Section 8.

Silviculture treatment program

- 6 (1)** A registered buyer who submits a wood acquisition plan providing for a silviculture treatment program shall
- (a) submit a silviculture treatment program to be administered by the registered buyer; or
 - (b) submit a silviculture treatment program to be administered by a third party which has been agreed to in advance by the Department.
- (2)** A silviculture treatment program submitted in accordance with subsection 6(1) shall make provision for the following
- (a) the area of silviculture treatments in the silviculture treatment program shall be proportional to the volume of primary forest products acquired from private landowners and industrial landowners;
 - (b) the principles of the silviculture treatments included in the program shall meet the requirements of sustainable forest management set out in Section 9 of the *Forests Act*;
 - (c) treatments shall be conducted according to technical guidelines that have been approved by the Department; and
 - (d) the required value of the silviculture treatment program shall be in an amount not less than the total amount to be calculated by subtracting the volumes acquired in the previous year from private and industrial landowners from the volumes for which a contribution has been identified in clause 5(1)(b) multiplied by \$3.00 per m³ solid for

softwood volumes and multiplied by \$0.60 per m³ solid for hardwood volumes.

- (3) The calculations to determine the required value in clause 6(2)(d) shall be based on volumes acquired in the previous year and reported by the registered buyer in Form B of the *Registration and Statistical Return Regulations*.
- (4) The silviculture treatment program submitted shall have a deemed value that is greater than or equal to the total amount determined in clause 6(2)(d).
- (5) The deemed value of silviculture treatments shall be determined according to rates established by a review process undertaken by the Minister at least every five years.
- (6) A registered buyer shall complete the work required pursuant to the approved silviculture treatment program within the calendar year in which approval was received.

Third Party Programs

- 7 (1) The Minister shall approve silviculture treatment programs submitted by a third party on behalf of a Registered Buyer, under clause 6(1)(b) provided that the third party agrees to the following
 - (a) to submit reports for work completed under an approved silviculture treatment program;
 - (b) to allow for the Department to monitor treatments completed under the silviculture treatment program;
 - (c) to identify any or all registered buyers who are party to the silviculture treatment program and the extent of their interests;
 - (d) to notify registered buyers associated with this silviculture treatment program of any non-approvals, amendments, or terminations; and
 - (e) to conduct all silviculture treatments in accordance with subsections 6(2)(b) and (c) of these regulations.

Financial contributions to Sustainable Forestry Fund

- 8** (1) A registered buyer who has submitted a wood acquisition plan providing for contribution to the Sustainable Forestry Fund shall contribute to the Sustainable Forestry Fund the sum of
- (a) \$3.00 for each m³ solid of softwood species;
 - (b) \$0.60 for each m³ solid of hardwood species;
- acquired from privately owned forest lands in Nova Scotia.
- (2) The rate of contribution for each m³ solid of primary forest products referred to in subsection 8(1) shall be reviewed by the Department at least every five years and the rate may be varied in accordance with the following conditions:
- (a) current projection of the long term sustainable harvest levels for Nova Scotia;
 - (b) determination of the silviculture treatment requirements, by region, needed to achieve sustainable harvest levels in current projections in clause 8(2)(a); and
 - (c) estimated cost of silviculture treatments specified in clause 8(2)(b).
- (3) Contributions by registered buyers to the Sustainable Forestry Fund shall be made at the time of submission of the wood acquisition plan.

Approvals

- 9** (1) The Minister shall notify a registered buyer within sixty days of the submission of a wood acquisition plan as to whether the wood acquisition plan is approved.
- (2) The Minister may request additional information from a registered buyer in support of a wood acquisition plan.
- (3) A wood acquisition plan shall be approved where the Minister is satisfied that the registered buyer has met the requirements of the regulations.

Reporting

- 10 (1)** Where the Minister has approved a wood acquisition plan pursuant to subsection 9(1), the registered buyer shall submit an annual report in accordance with the time periods for submissions of annual statistical returns under the *Registration and Statistical Returns Regulations*.
- (2)** The annual report shall include the following
- (a)** a listing of all completed treatments by treatment area;
 - (b)** the site location;
 - (c)** a site map; and
 - (d)** name of landowner.
- (3)** The Minister shall approve the annual report if
- (a)** the registered buyer has submitted all of the documentation required pursuant to subsection 10(1); and
 - (b)** the deemed value is greater than or equal to the required value; or
 - (c)** the Minister has allowed the registered buyer to take the actions specified under subsection 12(1).
- (4)** The Minister may conduct a monitoring program to verify the accuracy of the annual report and to verify that the treatments have met the technical specifications.
- (5)** The Minister may require that the registered buyer submit quarterly progress reports specifying the work completed to date.

Audits

- 11 (1)** The Minister may conduct an audit of any silviculture treatment program and may re-assess any aspect of an approved silviculture treatment program for

five years subsequent to the date of approval of each corresponding annual report.

Carry Forward and Deficiency Provisions

- 12 (1)** Where the deemed value of a silviculture treatment program is less than the required value of the approved silviculture treatment program the Minister may allow a registered buyer to
- (a) carry forward for one year any deficiencies that are valued at not more than 20 % of the approved silviculture treatment program provided that deficiencies must be applied in proportion to the percentage of deficiencies identified in the previous years plan by private landowner and industrial landowner;
 - (b) pay into the Sustainable Forestry Fund the value of the entire deficiency, plus six months interest; or
 - (c) for deficiencies greater than 20 % of the approved silviculture treatment program, the Minister may require that the registered buyer make a payment into the Sustainable Forestry Fund for the deemed value of the deficiency in excess of 20 %, plus six months interest.
- (2)** A registered buyer may carry forward any credit for silviculture treatments completed in excess of the approved sustainable treatment program and that the credits are applied proportionally by private landowner and industrial landowner for a period not greater than five years.

Offence

- 13** A registered buyer who fails to comply with any of the provisions of these regulations is guilty of an offence.

Effective date

- 14** These regulations shall come into force on, from and after _____.